IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4073 OF 2006

Prakash Balkrishna Pujari. ... Applicant.

V/s.

The State of Maharashtra. ... Respondents.

Mr. Noorseema Baig h/f Khan Abdul Wahab for the Applicant.

Mr. Y.M. Nakhwa, A.P.P. for the State.

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CORAM : S.C. DHARMADHIKARI,J.

14TH DECEMBER 2006.

P.C. :

1. Heard learned Advocate appearing for the Applicant and Shri Nakhwa, learned APP for the Respondent.

2. The Applicant has been arrested on 6th January 2005 in connection with C.R.No.I-115/04 registered by Bazarpeth Police Station. The offence alleged are punishable under Sections 392, 397, 109, 341, 34 of Indian Penal Code r/w. Sections 3, 25(1)(a), 27 of Indian Arms Act.

3. The Applicant's bail application has been rejected by the learned Additional Sessions Judge, Kalyan on 8th September 2006. That is how the present application has been filed.

4. The learned Advocate appearing for the Applicant invites my attention to the orders passed in the case of co-accused who have identical role to play in the alleged crime. It is her submission that they are enlarged on bail by this court. On grounds of parity, the applicant therefore deserves to be enlarged on bail.

5. The learned APP has filed an affidavit of the concerned Investigating Officer wherein it is contended that the applicants antecedents are not clean. He has a past record of Criminal cases either pending against him or where he has been indicted.

6. An affidavit has been filed by the learned Advocate for the Applicant since the accused is in custody and after taking instructions from the concerned authorities, it is pointed out that barring the present case, there is one more case pending against the applicant registered at Hill Line Police Station for alleged offence punishable under Section 392 and 402 of Indian Penal Code. However, the Applicant has been enlarged on bail therein. There is no grievance that the conditions have not been complied with. Further, the Applicant has been acquitted in three other cases. The orders of acquittal are annexed to the affidavit.

7. The learned A.P.P. does not dispute that on the ground of parity and when the case against the Applicant is identical to that of co-accused, the Applicant deserves to be enlarged on bail. Hence, the following order :-

(i) The applicant arrested in connection with C.R.No.I-115 of 2004 registered with Bazarpeth Police Station, Kalyan shall be enlarged in the sum of Rs.10,000/- with one or two local sureties in the like amount.

(ii) The bail is granted subject to condition that the applicant will remain present before the concerned investigating officer of Bazarpeth Police Station once in a week on every Friday between 5.00 p.m. and 7.00 p.m. till conclusion of the trial for a period of three months and thereafter, subject to further directions of the trial Court. The applicant shall not leave Thane District without prior permission of the Trial Court.

(iii) The order of bail will be given effect only after the applicant furnishes to the investigating officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail. The applicant will not change his residential address thereafter till the conclusion of trial without prior intimation to the Investigating Officer.

(iv) The bail is granted subject to condition that the applicant shall not directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

(v) The applicant shall cooperate with the learned Trial Judge for expeditious disposal of the case. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

(vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(vii) Application is disposed of in above terms.

(viii) Parties to act on an authenticated copy of this order.

(S.C. Dharmadhikari,J.)